HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No. 15570 of 2005

ORDER:

The present writ petition came to be filed challenging the order passed by the first respondent dated 03.12.2001, wherein and whereunder the revision filed by the unofficial respondent herein was allowed setting aside the order of the Revenue Divisional Officer.

The averments in the writ affidavit would show that the lands in Survey Nos.753 and 754 situated at Rudraram Village, outside Cheriyal and Kaulampet of Medak District, belongs to one Shabuddin, who inherited the same from his parents and was under his cultivation by means of hired labours. It is stated that the said Shabuddin died issueless and thereafter his wife Smt.Sharfun Been executed a notarised sale deed in favour of the petitioner and accordingly possession was given to him. It is stated that the fourth respondent, by creating fictitious agreement of sale, purported to have been executed by said Smt.Sharfun Bee in his favour, filed an application before the MRO under Section 5-A of the Record of Rights Act. By an order dated 22.09.1989, the sale was regularized in favour of the fourth respondent. On coming to know about the same, the petitioner preferred an appeal under Section 5-B of the Act, wherein orders were passed directing both the parties to approach the Civil Court to establish their claim and accordingly regularization order was set aside. Thereafter, the petitioner again filed a review application before the RDO under Section 47 Rule 1 of CPC. It is stated that after considering the matter on merits, the RDO passed orders cancelling the certificate issued in favour of the fourth respondent. Subsequently, the fourth respondent preferred a revision under Section 9 of the Record of Rights Act before the first respondent. As the matter was kept pending, the fourth respondent filed W.P.No.3419 of 1996 before this Court, questioning the inaction of the first respondent. The said W.P. was disposed of directing the first respondent to dispose of the revision preferred by the fourth respondent herein within a period of four months. Thereafter, the first respondent, without issuing notice, passed an order dated 03.12.2001, setting aside the orders passed by the second respondent on 27.03.1995, holding that the RDO has no power to review. Challenging the order dated 03.12.2001, the present writ petition came to be filed.

The main argument advanced by the learned counsel for the petitioner is that no notice was given to the petitioner before passing the impugned order. The same is strongly refuted by the learned counsel for the unofficial respondent and also by the learned Government Pleader.

A perusal of the impugned order would show that the learned counsel for the respondent therein was absent and the order further indicates that the matter underwent several adjournments. The argument of the learned counsel for the petitioner that no notice was given to him cannot be accepted for the reason that order specifically states that respondents are absent and the matter already underwent several adjournments. Coming to the merits of the case, it is to be noted here that the revision before the Joint Collector was filed against the order passed by the RDO, reviewing his own order. The statue nowhere prescribes or gives power to the RDO to review his own order. The said fact is not seriously disputed by the learned counsel for the petitioner. But, however, states that since the Collector has given permission, the RDO has proceeded to review the matter. But no provision of law has been placed on record to substantiate the same. Infact a reading of the order of the Joint Collector clearly shows that the permission purported to have been given by the Collector vide proceedings dated 23.02.1994, to take up review under Section 158 of A.P.(TA) Land Revenue Act, does not clothe the RDO with a jurisdiction which is not conferred to him under the provisions of the A.P.Rights in Land and Pattadar Pass Books Act. It is well settled that a quasi-judicial authority cannot review its order unless expressly permitted by this statute.

In view of the above circumstances and taking into consideration the legal position that quasi judicial authority cannot review its own order, except if provided by the Statute, I see no ground to find fault with the order passed. It is to be noted that the petitioner as well as the unofficial respondents are claiming title over the property. The petitioner herein claims to have purchased the property from Smt.Sharfun Bee and at the same time fourth respondent also claims to have purchased the property from said Sharfun Bee vide unregistered sale deed, which was subsequently regularized after following due procedure on 22.09.1989. When there is a dispute with regard to the title, this Court, under Article 226 of the Constitution of India, cannot decide a factual aspect. However, giving liberty to the petitioner to avail the remedy available, if any under law, the writ petition is disposed of. There shall be no order as to costs.

As a sequel thereto, Miscellaneous Petitions pending if any in this Writ Petition, shall stand closed.

C. PRAVEEN KUMAR, J

17.08.2017
vhb